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DOCKET NO. 54271

APPLICATION OF KICKAPOO UTILITY LLC FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY IN WALLER COUNTY	§ § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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AGREED MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

On October 27, 2022, Kickapoo Utility LLC (Kickapoo) filed an application to obtain a sewer certificate of convenience and necessity (CCN) in Waller County, Texas under Texas Water Code (TWC) §§ 13.241 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237.

On April 4, 2023, the administrative law judge (ALJ) filed Order No. 4, requiring the parties to file a joint motion to admit evidence and proposed findings of fact and conclusions of law by June 14, 2023. Therefore, this pleading is timely filed.

I. JOINT MOTION TO ADMIT EVIDENCE

The Parties request the entry of the following items into the record of this proceeding:

1. Kickapoo's application, filed on October 27, 2022 (Interchange Item No. 1);
2. Kickapoo's mapping files, filed on October 27, 2022 (Interchange Item No. 2);
3. Kickapoo's financial information, filed on October 28, 2022 (Interchange Item No. 3);
4. Kickapoo's first financial supplement, filed on December 9, 2022 (Interchange Item No. 7);
5. Kickapoo's response to Order No. 2, filed on December 12, 2022 (Interchange Item No. 8);
6. Kickapoo's second financial supplement, filed on December 12, 2022 (Interchange Item No. 9);
7. Kickapoo's third financial supplement, filed on January 20, 2023 (Interchange Item No. 10);
8. Commission Staff's supplemental recommendation on administrative completeness and notice and proposed procedural schedule, filed on February 6, 2023 (Interchange Item No. 11);

9. Kickapoo's first proof of notice including newspaper tear sheets, filed on February 27, 2023 (Interchange Item No. 13);
10. Kickapoo's second proof of notice, filed on March 14, 2023 (Interchange Item No. 14);
11. Commission Staff's recommendation on sufficiency of notice, filed on April 3, 2023 (Interchange Item No. 15);
12. Kickapoo's consent form, filed on May 4, 2023 (Interchange Item No. 17);
13. Kickapoo's fourth financial supplement, filed on May 23, 2023 (Interchange Item No. 18);
14. Kickapoo's approved TCEQ TPDES permit, filed on May 23, 2023 (Interchange Item No. 19);
15. Commission Staff's final recommendation, filed on May 31, 2023 (Interchange Item No. 20);
16. Commission Staff's confidential attachment FB-1, filed on May 31, 2023 (Interchange Item No. 21); and
17. The attached map and certificate.

II. PROPOSED NOTICE OF APPROVAL

The Parties move for adoption of the attached Agreed Proposed Notice of Approval, which would grant Kickapoo a sewer certificate of convenience and necessity. The Parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs proposed in the Notice of Approval.

III. CONCLUSION

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the attached Proposed Notice of Approval be adopted.

Dated: June 14, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Division Director

Sneha Patel
Managing Attorney

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DOCKET NO. 54271

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on June 14, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Arnett D. Caviel
Arnett D. Caviel

Notice

9. On February 27, 2023, Kickapoo Utility filed the affidavit of Shelley Young, Consulting Engineer for Kickapoo Utility, attesting that notice was mailed to affected entities, landowners, and customers on February 8, 2023.
10. On February 27, 2023, Kickapoo Utility filed a publisher's affidavit including newspaper tear sheets attesting to publication of notice in *The Waller Times*, a publication of general circulation in Waller County, on February 15, 2023 and February 22, 2023.
11. On March 14, 2023, Kickapoo Utility filed the affidavit of Shelley Young, Consulting Engineer for Kickapoo Utility, attesting that notice was re-mailed to affected entities, landowners, and customers to include a more descriptive map and sent to Kickapoo Asset LLC, a landowner owning 25 or more acres within the requested service area on March 14, 2023.
12. In Order No. 4 filed on April 4, 2023, the ALJ found the notice sufficient.

Map, Certificate, and Tariff

13. On May 3, 2023, Commission Staff emailed the proposed map, certificate, and tariff to Kickapoo Utility.
14. On May 4, 2023, Kickapoo Utility filed its consent to the Commission Staff's proposed map, certificate, and tariff.
15. On June 14, 2023, Commission Staff filed the proposed map, certificate, and tariff as attachments to its joint motion to admit evidence.

Evidentiary Record

16. On June 14, 2023, Commission Staff filed a joint motion to admit evidence. In Order No. 5, filed on _____, 2023, the ALJ admitted the following into evidence: a) Kickapoo's application, filed on October 27, 2022; b) Kickapoo's mapping files, filed on October 27, 2022; c) Kickapoo's financial information, filed on October 28, 2022; d) Kickapoo's first financial supplement, filed on December 9, 2022; e) Kickapoo's response to Order No. 2, filed on December 12, 2022; f) Kickapoo's second financial supplement, filed on December 12, 2022; g) Kickapoo's third financial supplement, filed on January 20, 2023; h) Commission Staff's supplemental recommendation on administrative completeness and notice and proposed procedural schedule, filed on February 6, 2023; i) Kickapoo's first proof of notice including newspaper tear sheets, filed

on February 27, 2023; j) Kickapoo's second proof of notice, filed on March 14, 2023; k) Commission Staff's recommendation on sufficiency of notice, filed on April 3, 2023; l) Kickapoo's consent form, filed on May 4, 2023; m) Kickapoo's fourth financial supplement, filed on May 23, 2023; n) Kickapoo's approved TCEQ TPDES permit, filed on May 23, 2023; o) Commission Staff's final recommendation, filed on May 31, 2023; p) Commission Staff's confidential attachment FB-1, filed on May 31, 2023; and the attached map, certificate, and tariff.

Adequacy of Existing Service

17. Sewer service is not currently being provided in the requested area.
18. Kickapoo Utility has a TCEQ approved wastewater treatment plant registered Welcome Home Communities Hockley Wastewater Treatment Facility, Wastewater Discharge Permit No. WQ0016113001.

Need for Additional Service

19. There is a need for service as Kickapoo Asset, LLC is developing a 160 home community for future residents.

Effect of Approving the Application and Granting the Certificate

20. There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximity were provided notice of the CCN amendment requested in this application and did not request to intervene.
21. Granting Kickapoo Utility the certificate would enable Kickapoo Utility to provide adequate and continuous sewer service to the requested area.

Ability to Serve: Managerial and Technical

22. Kickapoo Utility has a TCEQ approved WWTP registered as Welcome Home Communities Hockley Wastewater Treatment Facility, Wastewater Discharge Permit No. WQ0016113001.
23. Kickapoo Utility does not have any violations listed in the TCEQ database.
24. There are no complaints against Kickapoo Utility as they are a new utility provider.
25. Additional construction is necessary for Kickapoo Utility to serve the requested area.
26. Kickapoo has the managerial and technical capability to provide continuous and adequate retail wastewater service to the requested area.

Feasibility of Obtaining Service from an Adjacent Retail Public Utility

27. There are no other retail sewer service providers in the adjacent area that can serve the requested area. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

An application for a certificate of public convenience and necessity or for an amendment to a certificate must contain: a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area

28. Kickapoo Utility is building a new sewer treatment plant to provide service to the requested area.

29. Construction is set to begin upon approval of the TPDES permit.

30. The TPDES permit was issued on April 4, 2023 with an estimated completion date by the end of June 2023.

31. Estimated costs to build a new sewer system are expected to exceed \$100,000, therefore the need for firm capital commitment under 16 Texas Administrative Code (TAC) § 24.11(e)(5) is required.

Ability to Serve: Financial Ability and Stability

32. Kickapoo Utility has filed a Guaranty Agreement between Kickapoo Utility and its affiliates which states that its affiliates are capable, available, and willing to cover temporary cash shortages.

33. Kickapoo Utility through its affiliates has a debt-to-equity ratio of 0.06. Therefore, because Kickapoo Utility's ratio is less than one, Kickapoo Utility through its affiliates meets the leverage test.

34. Kickapoo Utility projects cash shortages however Kickapoo Utility's affiliates have secured a line of credit and have sufficient cash reserves to pay for the projected shortages. Therefore, Kickapoo Utility satisfies the operations test.

35. Kickapoo Utility's affiliates provided a firm capital commitment by securing a loan to purchase and install the capital improvements. Kickapoo Utility indicated the distribution system is complete and the wastewater plant construction is substantially complete and will

be totally complete by the end of June 2023. Therefore, Kickapoo Utility meets 16 TAC § 24.11(e)(5).

36. Kickapoo Utility demonstrated adequate financial and managerial capability to provide continuous and adequate service to the requested area.

Financial Assurance

37. There is no need to require Kickapoo utility to provide a bond or other financial assurance to ensure continuous and adequate service.

Regionalization or Consolidation

38. There are no sewer utility providers in the requested area.
39. Therefore, concerns of regionalization or consolidation do not apply.

Environmental Integrity and Effect on the Land

40. The environmental integrity of the land will be minimally affected as facilities are constructed to provide service to the requested area.

Improvement in Service or Lowering Cost to Consumers

41. Future residents of the planned development will have sewer service.
42. Commission Staff recommends that Kickapoo Utility file a rate application that includes financial information with the Commission within 18 months from the date service begins as required under TWC § 13.1872(c)(2) and 16 TAC § 24.25(b)(1)(C) in order to true-up fees and rates.

Informal Disposition

43. More than 15 days have passed since the completion of the notice provided in this docket.
44. No person filed a protest or motion to intervene.
45. Kickapoo Utility and Commission Staff are the only parties to this proceeding.
46. No party requested a hearing and no hearing is needed.
47. Commission Staff recommended that the application be approved.
48. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, and 13.246.
2. Kickapoo Utility is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Kickapoo provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
5. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Kickapoo Utility has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area, as required by TWC § 13.241 and 16 TAC § 24.227.
6. After consideration of TWC § 13.241(d) and 16 TAC § 24.227(b), regionalization or consolidation is not feasible, because no neighboring utilities have the facilities needed to provide service to the requested area.
7. It is not necessary for Kickapoo Utility to provide a bond or other financial assurance under TWC § 13.246(d).
8. Kickapoo Utility has demonstrated that granting sewer certificate convenience and necessity number 21139 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
9. Kickapoo Utility's affiliates provided a firm capital commitment by securing a loan to purchase and install the capital improvements as required by 16 TAC § 24.11(e)(5).
10. Kickapoo Utility must record a certified copy of the approved map and certificate, along with a boundary description of the service area, in the real property records of Waller County within 31 days of receiving this Notice of Approval and submit evidence of the recording to the Commission as required by TWC § 13.257(r) and (s).

¹ Tex. Gov't Code §§ 2001.001-.903.

11. Under 16 TAC § 24.25(b)(1)(C), Kickapoo Utility must file a rate application with actual financial information with the Commission within 18 months from the date service begins.
12. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission grants Kickapoo Utility sewer CCN number 21139 as described in this Notice of Approval and shown on the attached map.
2. The Commission approves the map attached to this Notice of Approval.
3. The Commission issues the certificate attached to this Notice of Approval.
4. The Commission approves the tariff attached to this Notice of Approval.
5. Kickapoo Utility must serve every customer and applicant for service within the approved area under CCN number 21139 who requests sewer service and meets the terms of Kickapoo Utility's sewer service policies, and such service must be continuous and adequate.
6. Kickapoo Utility must comply with the recording requirements in TWC § 13.257(r) and (s) for the area Waller County affected by this application and file in this docket proof of the recording no later than 45 days after the date of this Notice of Approval.
7. Within ten days after the date of this Notice of Approval, Commission Staff must provide a clean copy of the tariff approved in this Notice of Approval to Central Records to be stamped *Approved* and filed in the Commission's tariff book.
8. Kickapoo Utility must file a rate application with actual financial information with the Commission within 18 months from the date service begins.
9. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas on the ____ day of _____, 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE



**SEWER UTILITY TARIFF
Docket Number 54271**

Kickapoo Utility LLC
(Utility Name)

6315B FM 1488 Road, Suite 192
(Business Address)

Magnolia, Texas 77354
(City, State, Zip Code)

(346) 703-1009
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

21139

This tariff is effective in the following county(ies):
Waller

This tariff is effective in the following cities or unincorporated towns (if any):

None

This tariff is effective in the following subdivisions or systems:

WQ0016113001 - Welcome Home Communities-Hockley

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The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

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SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly Minimum Charge</u>	<u>Gallonage Charge</u>
5/8"	\$70.00	N/A per 1,000 gallons over
3/4"	\$105.00	
1"	\$175.00	
2"	\$560.00	
3"	\$1,050.00	
4"	\$2,100.00	

Volume charges are determined based on average consumption for winter period which includes the following months: N/A Flat Rate Sewer Charge

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash , Check , Money Order , MasterCard , Visa , Electronic Fund Transfer
 THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS. AT THE CUSTOMER'S OPTION, ANY BILLING TRANSACTION OR COMMUNICATION MAY BE PERFORMED ON THE INTERNET. THIS INCLUDES THE UTILITY SENDING PAPERLESS BILLS BY EMAIL.

REGULATORY ASSESSMENT1.0%
 PUBLIC UTILITY COMMISSION (PUCT) RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL AND TO REMIT FEE TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ).

TAP FEE.....\$1,250.00
 TAP FEE IS BASED ON THE AVERAGE OF THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR STANDARD RESIDENTIAL CONNECTION OF 5/8" METER PLUS UNIQUE COSTS AS PERMITTED BY PUCT RULE AT COST.

TAP FEE (Unique costs).....Actual Cost
 FOR EXAMPLE, A ROAD BORE FOR CUSTOMERS OUTSIDE OF SUBDIVISIONS OR RESIDENTIAL AREAS.

TAP FEE (Large Connection Tap).....Actual Cost
 TAP FEE IS BASED ON THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METERS LARGER THAN STANDARD 5/8" METERS.

SECTION 1.0 -- RATE SCHEDULE (Continued)

Section 1.02 – Miscellaneous Fees

RECONNECTION FEE

THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

- a) Non-payment of bill (Maximum \$25.00) \$25.00
- b) Customer's request that service be disconnected \$40.00
 or other reasons listed under Section 2.0 of this tariff

TRANSFER FEE \$25.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED.

LATE CHARGE (Either \$5.00 or 10% of the bill) \$5.00

COMMISSION RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE \$30.00

RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50) \$50.00

COMMERCIAL AND NON-RESIDENTIAL DEPOSIT 1/6TH ESTIMATED ANNUAL BILL

GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE CLAUSE:

WHEN AUTHORIZED IN WRITING BY THE COMMISSION AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING. [16 TAC § 24.25(b)(2)(F)]

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

SECTION 2.0 - SERVICE RULES AND POLICIES

The Utility will have the most current Public Utility Commission of Texas (PUCT or Commission) Rules, Chapter 24, available at its office for reference purposes. The Rules and this tariff shall be available for public inspection and reproduction at a reasonable cost. The latest Rules or Commission approved changes to the Rules supersede any rules or requirements in this tariff.

Section 2.01 - Application for Sewer Service

All applications for service will be made on the utility's standard application or contract form (attached in the Appendix to this tariff), will be signed by the applicant, any required fees (deposits, reconnect, tap, extension fees, etc. as applicable) will be paid and easements, if required, will be granted before service is provided by the utility. A separate application or contract will be made for each service location.

Section 2.02 – Refusal of Service

The Utility may decline to serve an applicant until the applicant has complied with the regulations of the regulatory agencies (state and municipal regulations) and for the reasons outlined in the Commission rules. In the event that the Utility refuses to serve an applicant, the Utility will inform the applicant in writing of the basis of its refusal. The Utility is also required to inform the applicant that a complaint may be filed with the Commission.

Section 2.03 – Fees and Charges and Easements Required Before Service Can Be Connected

(A) Customer Deposits

If a residential applicant cannot establish credit to the satisfaction of the Utility, the applicant may be required to pay a deposit as provided for in Section 1.02 – Miscellaneous Fees of this tariff. The Utility will keep records of the deposit and credit interest in accordance with Commission rules.

Residential applicants 65 years of age or older may not be required to pay deposits unless the applicant has an outstanding account balance with the Utility or another water or sewer utility that accrued within the last two years.

Nonresidential applicants who cannot establish credit to the satisfaction of the Utility may be required to make a deposit that does not exceed an amount equivalent to one-sixth of the estimated annual billings.

Refund of deposit - If service is not connected, or after disconnection of service, the Utility will promptly refund the customer's deposit plus accrued interest or the balance, if any, in excess of the unpaid bills for service furnished. The Utility may refund the deposit at any time prior to termination of utility service but must refund the deposit plus interest for any residential customer who has paid 18 consecutive billings without being delinquent. Deposits from non-residential customers may be held as long as that customer takes service.

SECTION 2.0 - SERVICE RULES AND POLICIES (Continued)

(B) Tap or Reconnect Fees

A new customer requesting service at a location where service has not previously been provided must pay a tap fee as provided in Section 1. A customer requesting service where service has previously been provided must pay a reconnect fee as provided in Section 1. Any applicant or existing customer required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to request for payment and/or commencement of construction. If the applicant or existing customer does not believe that these costs are reasonable or necessary, the applicant or existing customer shall be informed of their right to appeal such costs to the Commission or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's or existing customer's property (ies) is located.

Fees in addition to the regular tap fee may be charged to cover unique costs not normally incurred as permitted by 16 TAC § 24.163(b)(1)(C) if they are listed on this approved tariff. For example, a road bore for customers outside a subdivision or residential area could be considered a unique cost.

(C) Easement Requirement

Where recorded public utility easements on the service applicant's property do not exist or public road right-of-way easements are not available to access the applicant's property, the utility may require the applicant to provide it with a permanent recorded public utility easement on and across the applicant's real property sufficient to provide service to that applicant. Such easement(s) shall not be used for the construction of production, storage, transmission or pressure facilities unless they are needed for adequate service to that applicant.

Section 2.04 - Utility Response to Applications for Service

After the applicant has met all the requirements, conditions and regulations for service, the utility will install tap and utility cut-off and/or take all necessary actions to initiate service. The utility will serve each qualified applicant for service within 5 working days unless line extensions or new facilities are required. If construction is required to fill the order and if it cannot be completed within 30 days, the utility will provide the applicant with a written explanation of the construction required and an expected date of service.

Except for good cause where service has previously been provided, service will be reconnected within one working day after the applicant has met the requirements for reconnection.

Section 2.05 - Customer Responsibility

The customer will be responsible for furnishing and laying the necessary customer service pipe from the tap location to the place of consumption. Customers will not be allowed to use the utility's cutoff.

SECTION 2.0 - SERVICE RULES AND POLICIES (Continued)

Section 2.06 Access to Customer's Premises

All customers or service applicants shall provide access to utility cutoffs at all times reasonably necessary to conduct ordinary utility business and after normal business hours as needed to protect and preserve the integrity of the public drinking water supply.

Section 2.07 - Billing

(A) Regular Billing

Bills from the utility will be mailed monthly unless otherwise authorized by the Commission. The due date of bills for utility service will be at least sixteen (16) days from the date of issuance. The postmark on the bill or, if there is no postmark on the bill, the recorded date of mailing by the utility will constitute proof of the date of issuance. Payment for utility service is delinquent if full payment, including late fees and the regulatory assessment, is not received at the utility or the utility's authorized payment agency by 5:00 p.m. on the due date. If the due date falls on a holiday or weekend, the due date for payment purposes will be the next workday after the due date.

(B) Late Fees

A late penalty of either \$5.00 or 10.0% will be charged on bills received after the due date. The penalty on delinquent bills will not be applied to any balance to which the penalty was applied in a previous billing. The utility must maintain a record of the date of mailing to charge the late penalty.

(C) Information on Bill

Each bill will provide all information required by the Commission rules. For each of the systems it operates, the utility will maintain and note on the monthly bill a local or toll-free telephone number (or numbers) to which customers can direct questions about their utility service.

(D) Prorated Bills

If service is interrupted or seriously impaired for 24 consecutive hours or more, the utility will prorate the monthly base bill in proportion to the time service was not available to reflect this loss of service.

SECTION 2.0 - SERVICE RULES AND POLICIES (Continued)

Section 2.08 - Payments

All payments for utility service shall be delivered or mailed to the utility's business office. If the business office fails to receive payment prior to the time of noticed disconnection for non-payment of a delinquent account, service will be terminated as scheduled. Utility service crews shall not be allowed to collect payments on customer accounts in the field.

Payment of an account by any means that has been dishonored and returned by the payor or payee's bank shall be deemed to be delinquent. All returned payments must be redeemed with cash or valid money order. If a customer has two returned payments within a twelve month period, the customer shall be required to pay a deposit if one has not already been paid.

Section 2.09 - Service Disconnection

(A) With Notice

Utility service may be disconnected if the bill has not been paid in full by the date listed on the termination notice. The termination date must be at least 10 days after the notice is mailed or hand delivered.

The utility is encouraged to offer a deferred payment plan to a customer who cannot pay an outstanding bill in full and is willing to pay the balance in reasonable installments. However, a customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 26 days from the date of issuance of a bill and if proper notice of termination has been given.

Notice of termination must be a separate mailing or hand delivery in accordance with the Commission rules.

(B) Without Notice

Utility service may also be disconnected without notice for reasons as described in the Commission rules.

Section 2.10 - Reconnection of Service

Utility personnel must be available during normal business hours to accept payments on the day service is disconnected and the following day unless service was disconnected at the customer's request or due to a hazardous condition.

Service will be reconnected within 24 hours after the past due bill, reconnect fees and any other outstanding charges are paid or the conditions which caused service to be disconnected are corrected.

SECTION 2.0 - SERVICE RULES AND POLICIES (Continued)

Section 2.11 - Service Interruptions

The utility will make all reasonable efforts to prevent interruptions of service. If interruptions occur, the utility will re-establish service within the shortest possible time. Except for momentary interruptions due to automatic equipment operations, the utility will keep a complete record of all interruptions, both emergency and scheduled and will notify the Commission in writing of any service interruptions affecting the entire system or any major division of the system lasting more than four hours. The notice will explain the cause of the interruptions.

Section 2.12 - Quality of Service

The Utility will plan, furnish, and maintain and operate production, treatment, storage, transmission, and collection facilities of sufficient size and capacity to provide continuous and adequate service for all reasonable consumer uses and to treat sewage and discharge effluent of the quality required by its discharge permit issued by the TCEQ. Unless otherwise authorized by the TCEQ, the Utility will maintain facilities as described in the TCEQ Rules.

Section 2.13 - Customer Complaints and Disputes

If a customer or applicant for service lodges a complaint, the Utility will promptly make a suitable investigation and advise the complainant of the results. Service will not be disconnected pending completion of the investigation. If the complainant is dissatisfied with the Utility's response, the Utility must advise the complainant that he has recourse through the PUCT complaint process. Pending resolution of a complaint, the Commission may require continuation or restoration of service.

The Utility will maintain a record of all complaints which shows the name and address of the complainant, the date and nature of the complaint and the adjustment or disposition thereof, for a period of two years after the final settlement of the complaint.

In the event of a dispute between a customer and a utility regarding any bill for utility service, the utility will conduct an investigation and report the results to the customer. If the dispute is not resolved, the utility will inform the customer that a complaint may be filed with the Commission.

Section 2.14 - Customer Liability

Customer shall be liable for any damage or injury to utility-owned property shown to be caused by the customer.

SECTION 3.0 - EXTENSION POLICY

Section 3.01 - Standard Extension Requirements

Line Extension and Construction Charges: No Contribution In Aid of Construction may be required of any customer except as provided for in this approved extension policy.

The utility is not required to extend service to any applicant outside of its certified service area and will only do so under terms and conditions mutually agreeable to the utility and the applicant, in compliance with Commission rules and policies, and upon extension of the utility's certified service area boundaries by the Commission.

The applicant for service will be given an itemized statement of the costs, options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants prior to beginning construction.

Section 3.02 - Costs Utilities and Service Applicants Shall Bear

Within its certified area, the utility will pay the cost of the first 200 feet of any sewer collection line necessary to extend service to an individual residential customer within a platted subdivision.

However, if the residential customer requesting service purchased the property after the developer was notified in writing of the need to provide facilities to the utility, the utility may charge for the first 200 feet. The utility must also be able to document that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility.

Residential customers will be charged the equivalent of the costs of extending service to their property from the nearest collection line even if that line does not have adequate capacity to serve the customer. However, if the customer places unique, non-standard service demands upon the system, the customer may be charged the additional cost of extending service to and throughout their property, including the cost of all necessary transmission and storage facilities necessary to meet the service demands anticipated to be created by that property.

Unless an exception is granted by the PUCT, the residential service applicant shall not be required to pay for costs of main extensions greater than 6" in diameter for gravity wastewater lines.

Exceptions may be granted by the PUCT if

- adequate service cannot be provided to the applicant using the maximum line sizes listed due to distance or elevation, in which case, it shall be the utility's burden to justify that a larger diameter pipe is required for adequate service;
- or larger minimum line sizes are required under subdivision platting requirements or building codes of municipalities within whose corporate limits or extraterritorial jurisdiction the point of use is located; or the residential service applicant is located outside the CCN service area.

SECTION 3.0 - EXTENSION POLICY (continued)

If an exception is granted, the utility shall establish a proportional cost plan for the specific extension or a rebate plan which may be limited to seven years to return the portion of the applicant's costs for oversizing as new customers are added to ensure that future applicants for service on the line pay at least as much as the initial service applicant.

For purposes of determining the costs that service applicants shall pay, commercial customers with service demands greater than residential customer demands in the certified area, industrial, and wholesale customers shall be treated as developers.

If an applicant requires service other than the standard service provided by the utility, such applicant will be required to pay all expenses incurred by the utility in excess of the expenses that would be incurred in providing the standard service and connection beyond 200 feet and throughout his property including the cost of all necessary transmission facilities.

The utility will bear the full cost of any over-sizing of sewer mains necessary to serve other customers in the immediate area. The individual residential customer shall not be charged for any additional treatment facilities. Contributions in aid of construction may not be required of individual residential customers for production, storage, treatment, or transmission facilities unless otherwise approved by the Commission under this specific extension policy.

Section 3.03 - Contributions in Aid of Construction

Developers may be required to provide contributions in aid of construction in amounts sufficient to furnish the development with all facilities necessary to provide for reasonable local demand requirements and to comply with the TCEQ minimum design criteria for facilities used in the production, collection, transmission, pumping, or treatment of sewage or the TCEQ minimum requirements. For purposes of this subsection, a developer is one who subdivides or requests more than two meters on a piece of property. Commercial, industrial, and wholesale customers will be treated as developers.

Any applicant who places unique or non-standard service demands on the system may be required to provide contributions in aid of construction for the actual costs of any additional facilities required to maintain compliance with the TCEQ minimum design criteria for sewer treatment and collection.

Any service extension to a subdivision (recorded or unrecorded) may be subject to the provisions and restrictions of 16 TAC § 24.163(d). When a developer wishes to extend the system to prepare to service multiple new connections, the charge shall be the cost of such extension, plus a pro-rata charge for facilities which must be committed to such extension compliant with the TCEQ minimum design criteria. As provided by 16 TAC § 24.163(d)(4), for purposes of this section, commercial, industrial, and wholesale customers shall be treated as developers.

SECTION 3.0 - EXTENSION POLICY (continued)

A utility may only charge a developer standby fees for unrecovered costs of facilities committed to a developer's property under the following circumstances:

- Under a contract and only in accordance with the terms of the contract; or
- if service is not being provided to a lot or lots within two years after installation of facilities necessary to provide service to the lots has been completed and if the standby fees are included on the utilities approved tariff after a rate change application has been filed. The fees cannot be billed to the developer or collected until the standby fees have been approved by the Commission or executive director.
- For purposes of this section, a manufactured housing rental community can only be charged standby fees under a contract or if the utility installs the facilities necessary to provide individually metered service to each of the rental lots or spaces in the community.

Section 3.04 - Appealing Connection Costs

The imposition of additional extension costs or charges as provided by Sections 3.0 - Extension Policy of this tariff shall be subject to appeal as provided in this tariff, Commission rules, or the rules of such other regulatory authority as may have jurisdiction over the utility's rates and services. Any applicant required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to payment and/or commencement of construction. If the applicant does not believe that these costs are reasonable or necessary, the applicant shall be informed of the right to appeal such costs to the Commission or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's property(ies) is located.

Section 3.05 - Applying for Service

The utility will provide a written service application form to the applicant for each request for service received by the utility's business offices. A separate application shall be required for each potential service location if more than one service connection is desired by any individual applicant. Service application forms will be available at the utility's business office during normal weekday business hours. Service applications will be sent by prepaid first class United States mail to the address provided by the applicant upon request. Completed applications should be returned by hand delivery in case there are questions which might delay fulfilling the service request. Completed service applications may be submitted by mail if hand delivery is not possible.

Where a new tap or service connection is required, the service applicant shall be required to submit a written service application and request that a tap be made. A diagram, map, plat, or written metes and bounds description of precisely where the applicant desires each tap or service connection is to be made and, if necessary, where the meter is to be installed, along the applicant's property line may also be required with the tap request. The actual point of connection and meter installation must be readily accessible to utility personnel for inspection, servicing, and meter reading while being reasonably secure from damage by vehicles and mowers. If the utility has more than one main adjacent to the service applicant's property, the tap or service connection will be made to the utility's nearest service main with adequate capacity to service the applicant's full potential service demand.

SECTION 3.0 - EXTENSION POLICY (continued)

Beyond the initial 200 feet, the customer shall bear only the equivalent cost of extending from the nearest main. If the tap or service connection cannot be made at the applicant's desired location, it will be made at another location mutually acceptable to the applicant and the utility. If no agreement on location can be made, the applicant may refer the matter to the Commission for resolution.

Section 3.06 - Qualified Service Applicant

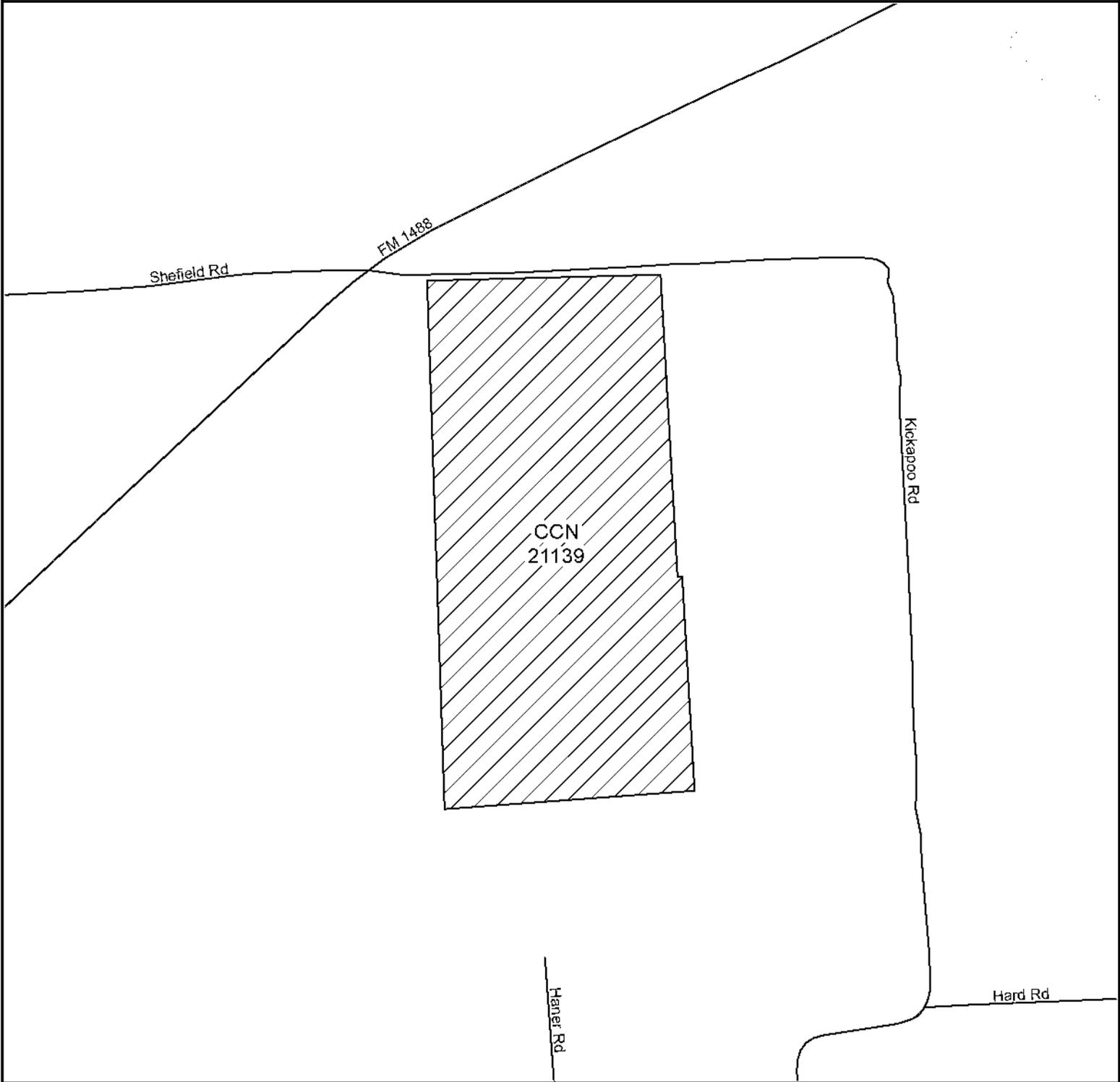
A "qualified service applicant" is an applicant who has: (1) met all of the utility's requirements for service contained in this tariff, Commission rules and/or order, (2) has made payment or made arrangement for payment of tap fees, (3) has provided all easements and rights-of-way required to provide service to the requested location, (4) delivered an executed customer service inspection certificate to the Utility, if applicable, and (5) has executed a customer service application for each location to which service is being requested.

The utility shall serve each qualified service applicant within its certified service area as soon as practical after receiving a completed service application. All service requests will be fulfilled within the time limits prescribed by Commission rules once the applicant has met all conditions precedent to achieving "qualified service applicant" status. If a service request cannot be fulfilled within the required period, the applicant shall be notified in writing of the delay, its cause and the anticipated date that service will be available. The Commission service dates shall not become applicable until the service applicant has met all conditions precedent to becoming a qualified service applicant as defined by Commission rules.

Section 3.07 - Developer Requirements

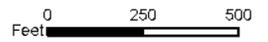
As a condition of service to a new subdivision, the utility shall require a developer (as defined by PUCT rule) to provide permanent recorded public utility easements as a condition of service to any location within the developer's property.

Kickapoo Utility, LLC
Sewer CCN No. 21139
PUC Docket No. 54271
Obtained New Sewer CCN in Waller County



Sewer CCN

 21139 - Kickapoo Utility LLC





Public Utility Commission of Texas

By These Presents Be It Known To All That

Kickapoo Utility LLC

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Kickapoo Utility LLC is entitled to this

Certificate of Convenience and Necessity No. 21139

to provide continuous and adequate sewer utility service to that service area or those service areas in Waller County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 54271 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Kickapoo Utility LLC to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.